

Obtaining the FBI Criminal Background Report

KRS 324.045 (4) and 201 KAR 11:430

This notice (also available on the KREC website -- krec.ky.gov) should be provided to all new real estate students and candidates applying for a license through license recognition. Please read this notice carefully. Applicants applying for a license through License Recognition should also refer to the KREC website, (www.krec.ky.gov) under the applicant information tab in the "License Recognition" section for requirements.

All persons applying for a Kentucky Real Estate License shall submit proof of a FBI Criminal Background Check to the Commission as a part of the application for a real estate license. **Please note that this process could take 16 weeks. The report is only valid for six months from the date stamped on the report.** This record must indicate that there have been no felony convictions during the applicant's lifetime, or any misdemeanor convictions within the previous five-year period. Some examples of misdemeanors which may be subject to a Commission investigation include: DUI, sexual assault, certain theft charges, and certain drug convictions. In general, speeding and minor traffic violations would not be misdemeanors. Some serious traffic violations could be misdemeanors. The Commission may investigate any charges that are revealed by the FBI report or any other evidence of dishonesty, untruthfulness or bad reputation of the candidate.

If a license candidate is on parole, probation or any other state supervised reporting requirements ordered by the court, the candidate may be denied a license by the Commission until such time as the parole, probation or supervision has ended. Upon completion of the probation, the candidate may reapply to the Commission for consideration. If you are currently on probation or parole, you may want to delay taking classes and the examination until after the probationary period has ended.

Where can I obtain the necessary FBI forms? To obtain the fingerprint cards, check with your local law enforcement agency, the Kentucky State Police (check www.kentuckystatepolice.org/post.htm for the nearest location), or call the West Virginia office of the FBI at 304-625-3878. If you contact the FBI, ask for the fingerprint card and for information to obtain an identification record check **for personal review**.

Who will take my fingerprints? Most local law enforcement agencies, county sheriff's departments, and some city and county police departments, or any state police post may be able to take your fingerprints. In Louisville, the Department of Corrections located at the county jail on Sixth Street handles fingerprinting services for the Jefferson County Sheriff's Department. Some law enforcement agencies may charge a fee for fingerprinting services.

What is the cost and where do I send it? Send the completed fingerprint card, a short letter (sample attached or available on the website) advising the FBI that the report is **desired for personal review**, and an \$18 certified check or money order, payable to the Treasury of the United States. If all items are not included, the request will be returned to you by the FBI for correction. We suggest that you send the request by some form of **next day or second day air service and include on the envelope and the cover letter, a deadline by which you would like to receive the report.** Also, include a stamped self-addressed business envelope.

Forward to the address listed below:

Federal Bureau of Investigation
Criminal Justice Information Services Division
SCU MOD D2
1000 Custer Hollow Rd.
Clarksburg, WV 26306
304-625-2000 to check the status of your report

The fingerprint process outlined in this document is the only acceptable method for obtaining the FBI report.

May I take the test after I have completed my coursework and submitted my request for the criminal records check? YES, as long as you have forwarded the fingerprint card and request to the FBI for processing.

What should I do if my report is clear? The report will be mailed directly to you. The original report(s) and fingerprint card **must be attached** to your application and submitted with the other documents that are required to obtain your license. Photocopies of the card and the written FBI report are not acceptable.

Optional Affidavit Process: If the FBI report is not back by the time you are ready to apply for your license, you may use the optional affidavit process (if there have been will be no felonies during your lifetime, any misdemeanors within the last five years, or any pending charges) shown on your report. Please read the information sheet and the affidavit carefully before using this option. The principal broker must sign page 2 of the affidavit—**(only for sales associates who wish to have an active license)**. This document must be attached to the optional affidavit. If you use this option, you **MUST IMMEDIATELY** forward the FBI report to the Commission as soon as you receive it from the FBI.

What happens if I have a misdemeanor within the last five years or a felony during my lifetime? You **MAY NOT** use the optional affidavit process. ***Immediately*** forward the FBI report and card to the Commission. You will be asked to complete a Privacy Act Waiver and an investigation will be initiated. Following the investigation, the applicant will either be allowed to continue with the education and testing process or directed to appear before the Commission for a hearing. **If the FBI report does not show the final disposition of the charges (what you were convicted of, whether it was a felony or misdemeanor, and the penalty), you may want to obtain this information from the court before sending in your application. If we do not have the final disposition, we will have to obtain it before your application can be processed for investigation.**

How long does the investigation take? Approximately 60-90 days depending upon how quickly all of the documents are returned to the Commission and the backlog of cases.

What if my report comes back indicating that the prints are unreadable? If the prints are unreadable, the applicant should contact the Commission to obtain an affidavit, which must be signed before a notary. The completed affidavit, original fingerprint card, and FBI report which indicated the prints were unreadable must be attached to the individual's application and other documents when they are submitted to obtain the license.

IMPORTANT NOTES: Regulation 201 KAR 11:210 (6) requires that all exam candidates apply for their license within 60 days of the examination date. **If you delay requesting the background report and take the exam without having first applied to the FBI for the criminal check, your test scores can be invalidated, thus requiring a retest.**

Copies of a report that have been done for another entity or organization are not acceptable. The fingerprint card and report become a part of the licensee's permanent file and cannot be returned to you.

Persons with any felony convictions or certain misdemeanors (within the last five years) **SHOULD NOT** enroll in classes and/or pay course fees or tuition or take the examination until the Commission has determined your eligibility for a license. If you continue with classes and take the test, you do so at your own risk.

If you have further questions, contact the Commission office.

Kentucky Real Estate Commission
10200 Linn Station Rd., Suite 201
Louisville, KY 40223
Phone: 502-429-7250 or 1- 888-373-3300 Fax: 502-429-7246, Website: krec.ky.gov

Federal Bureau of Investigation
Criminal Justice Information Services Division
1000 Custer Hollow Road
Clarksburg, WV 26306

RE: CRIMINAL BACKGROUND CHECK

I am requesting this background check and report **for a personal review**. Enclosed is the required, completed fingerprint card, along with the \$18 processing fee. (Certified check or money order, payable to: Treasury of the United States).

Please **expedite** this request and return the report to me by _____.
Thank you.

Printed or Typed: _____

Full Legal Name

Street Address

City, State, Zip Code

Signature

Date

CRIMINAL BACKGROUND REPORT OPTIONAL AFFIDAVIT PROCESS FOR LICENSURE

All candidates must request the FBI report BEFORE sitting for the examination or applying for a license through license recognition, using the process outlined on the attached information sheet, "Obtaining the FBI Criminal Background Report".

The Commission has now approved the use of an **OPTIONAL signed affidavit process**. This affidavit, if signed, will certify that the candidate has not had any felonies during his or her lifetime, any misdemeanors within the past five years and that there are no pending charges. This process will allow a candidate to apply for his/her license (without the background report), provided the candidate agrees to mail the background report to the KREC within five days of its receipt from the FBI. **The affidavit may not be used by a new candidate who will be placing the license into escrow. The Principal Broker authorization is only required for new sales associates who will have an active license.**

If an applicant chooses to use this optional affidavit, he/she must also submit an AOC (state) report. This report takes approximately 7-10 business days to obtain and is **only valid for licensing purposes for 60 days from the date issued**. To obtain that report, send the attached form and a \$10 check to:

Administrative Office of the Courts (AOC)
Pretrial Services, Records
100 Millcreek Park
Frankfort, KY 40601

If you do not live in Kentucky, you need to obtain a similar report from your state of residence. This might be available through your state police or through an agency similar to the AOC office in Kentucky. The state report and the completed affidavit may then be submitted to the Commission along with the license application and other required documents and fees.

If this optional affidavit process is used, you must obtain the signature of the principal broker, on page two of the optional affidavit. This document must be attached to your affidavit.

IMPORTANT NOTE: Individuals who have a felony during their lifetime, a misdemeanor within the last five years, or pending charges on their FBI reports MAY NOT use the affidavit process. They must wait for the FBI report before proceeding with their application. Upon receipt of the report, the individual should immediately send the report to the Commission's Legal Department so that the investigation process can be initiated.

Falsification of the affidavit will result in the **immediate suspension** of the individual's license. The Commission will investigate the case. The broker will be asked to return the license and the candidate must cease all real estate activities.

Failure to submit the FBI report to the Commission within 120 days of the issuance of the license will result in **immediate disciplinary action** against the licensee. If the report has not been received by the candidate within the 120 day period, the individual must notify the Commission in writing.

If a candidate is licensed by submitting the affidavit, but it is later discovered that the FBI report was not requested before the candidate took the examination, the candidate may also face disciplinary action.

**KENTUCKY REAL ESTATE COMMISSION
OPTIONAL AFFIDAVIT FOR LICENSURE**

READ THIS AFFIDAVIT VERY CAREFULLY BEFORE SIGNING. ANY CASES OF FALSE SWEARING ARE CRIMINAL AND WILL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW.

Comes the Affiant, _____, and after having been duly sworn, hereby states under oath as follows:

I hereby swear or affirm that I have not been convicted of a felony crime during my lifetime. I further swear or affirm that I have not been convicted of any misdemeanor crime, including, but not limited to, DUI, theft and/or sexual misconduct, during the previous five years and that there are no other pending charges against me at this time. **

I understand that this statement is made under oath. **I understand that if the information in this affidavit concerning my criminal record is later shown to be false, my license shall be immediately suspended.**

I hereby swear or affirm that I will submit my FBI criminal background report within five days of receipt of it. **I understand that failure to submit my report within this five-day period shall result in disciplinary action being taken against my license.** I mailed my request for the report to the FBI on _____. If I have not received the criminal background report within 120 days of the issuance of the license, I will immediately notify the Commission in writing. **I understand that failure to send the report to the Commission within 120 days shall result in disciplinary action against my license.**

Further, Affiant sayeth naught.

Applicant Signature

Applicant Address

STATE OF _____)

COUNTY OF _____)

Subscribed to and acknowledged before me this _____ day of _____, 2009.

Notary Public, State at Large

My Commission expires: _____

** Any cases that have been officially expunged do not have to be disclosed.

PLEASE NOTE: If you are unable to sign this affidavit due to a felony conviction during your lifetime, a misdemeanor conviction within the past five years or a pending charge, you shall not use the optional affidavit. You must wait for the FBI background report before proceeding with the application for licensure.

Principal Broker Authorization

**Required for all new sales associate candidates who will have an active license.
Broker candidates are not required to complete this section.**

I, _____, Principal Broker agree to sponsor the following applicant, _____ for a real estate license prior to receipt of the FBI criminal background report, based upon completion of the attached optional affidavit for licensure and submission of a report issued by the Kentucky Administrative Office of the Courts or a similar state agency in another jurisdiction if the applicant lives outside Kentucky.

A mentor/licensee will be assigned to work with this individual until the clear FBI report has been forwarded to the Kentucky Real Estate Commission. I agree that this new licensee will not be allowed to show property or meet with clients unless accompanied by the mentor or another licensee assigned by the principal broker to perform that task.

If charges or convictions are reported by the FBI, I agree, as the principal broker, to take whatever action is directed of me by the Kentucky Real Estate Commission.

Broker Signature

Date

Kentucky Real Estate Commission

AOC REQUEST FORM

The process to obtain Kentucky criminal background checks through the CourtNet Disposition System are as follows:

Requesting a criminal background check for the purpose of obtaining a license with the Kentucky Real Estate Commission (using the optional affidavit process) requires a **\$10.00 fee** (Check or money order made payable to the **KENTUCKY STATE TREASURER**). Completely fill out this form and enclose a postage paid, self addressed envelope. The report will be returned to you. If you have any questions, please contact Pretrial Services Records Division at (502) 573-1682 or (800) 928-6381.

Mail request to this address: **ADMINISTRATIVE OFFICE OF THE COURTS
PRETRIAL SERVICES RECORDS DIVISION
100 MILLCREEK PARK
FRANKFORT KY 40601**

PLEASE PRINT OR TYPE THE INFORMATION CLEARLY

<u>Last Name</u>	<u>First Name</u>	<u>Middle Name</u>	<u>(Jr., Sr., etc.)</u>
<u>Social Security Number</u> - -	<u>Date of Birth</u> Mo. ____ Day ____ Year ____	<u>Alias/Maiden Name</u>	
<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>

I understand that failure to accurately provide the information requested may result in my prosecution under K.R.S. 523.100

Signature of Licensee

Date

Kentucky Real Estate Commission 10200 Linn Station Rd., Suite 201 Louisville, KY 40223 502-429-7250 or 888-373-3300	For Office Use Only
--	---------------------

If you fail to comply with all procedures outlined above, your request for this report will not be processed and the documents will be returned to you.